

THE HON'BLE SRI JUSTICE C.V. RAMULU

Wednesday, 18th October, 2006

W.P.No.27077 of 1995

Between:

The Fishermen Cooperative Society,
Gowlipura, Charminar Mandal, Hyderabad
District through its Authorised Person
Narsing Rao & another

... Petitioners

and

The Regional Deputy Director of
Fisheries, Zone VI at Hyderabad
and others

... Respondents

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W.P.No.27077 of 1995

ORAL ORDER:

This Writ Petition is filed seeking a Mandamus to declare the Proceedings No.373/B/92, dated 27-9-1995 of the 2nd respondent as arbitrary and illegal.

Under the said Proceedings dated 27-9-1995, bye-law No.1 of the bye-laws of the petitioner-society was sought to be amended by way of deleting Turkayamjal village from its area of operation purported to be under Section 16 of the Andhra Pradesh Cooperative Societies Act, 1964 (for short 'the Act').

In paragraph-3 of the writ affidavit, it is asserted that an application was got filed by some persons, who are not fishermen and got prepared a false report stating that they are fishermen. At that time, no opportunity was given to any of the members of the petitioner-society or to the Managing Committee, which was managing the affairs of the society and behind the back of the society, a report was prepared stating that some persons have made application for deletion of Turkayamjal village from the area of operation of the petitioner-society by amending the existing bye-laws of the society. When a notice was issued on 6-7-1995, the general body meeting was held on 8-7-1995 and it was unanimously resolved to oppose the move for amendment of bye-laws. The same was also appraised to the 4th respondent, who in turn, appraised the 2nd respondent. In spite

of the same, without assigning any reasons, the 2nd respondent passed Proceedings dated 14-8-1995 directing the petitioner-society to amend the bye-laws for deletion of Turkayamjal village from the area of operation of the petitioner-society. Aggrieved by the same, petitioners filed a Writ Petition being W.P.No.22054 of 1995 and this Court by an interim Order dated 14-8-1995 granted stay of all further proceedings. However, before the said order could be communicated, the impugned Proceedings were issued. It is further asserted that it is not open for the respondent-authorities to issue any proceedings purporting to be under Section 16 of the Act, when there is no managing committee. Apart from this, there was no proper resolution passed by the society in this regard.

In the counter affidavit filed by the 2nd respondent, the said allegations were not met. It is simply stated that some *bona fide* fishermen of Turkayamjal proposed for organization of a Fishermen Cooperative Society and Turkayamjal tank is a small water body and fish grown in the tank can easily be taken out with new type of nylon gill nets and produce will be enjoyed by local fishermen community; hence, the deletion orders issued by the 2nd respondent are authentic. It is further stated that a notice under Section 16(5) of the A.P. Cooperative Societies Act was issued after completing the authentic enquiry by the three-men committee of the *bona fide* fishermen of Turkayamjal and thereafter, the decision was taken.

In the entire counter affidavit, nowhere it is indicated that the petitioner-society has passed a resolution unanimously accepting the proposal for deletion of Turkayamjal village from the area of operation of the petitioner-society. Once there is no proper resolution passed by the petitioner-society accepting the deletion of Turkayamjal village from its operational area, I am of the opinion that the impugned

Proceedings issued by the 2nd respondent cannot be said to be legal.
Therefore, the same is liable to be set aside and is accordingly set
aside.

Accordingly, the Writ Petition is allowed. No order as to costs.

18-10-2006

prk